

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 108370

73

ORIGIN L-03

INFO OCT-01 ARA-16 IO-14 ISO-00 CIAE-00 DODE-00 PM-07 H-03

INR-10 NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 AID-20 IGA-02 EB-11 /138 R

DRAFTED BY L/HR:CRUNYON:AWR

APPROVED BY L/HR:CRUNYON

L/ARA:DAGANTZ (DRAFT)

ARA/BC:AISAACS (DRAFT)

ARA:GLISTER (DRAFT)

----- 016859

R 231956Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

LIMITED OFFICIAL USE STATE 108370

E.O. 11652: N/A

TAGS: CI, PINS, SOCI

SUBJECT: TESTIMONY OF PROF. COVEY OLIVER BEFORE HOUSE
SUBCOMMITTEES

1. PROF. COVEY OLIVER TODAY TESTIFIED BEFORE JOINT
FRASER-FASCELL SUBCOMMITTEES. BOTH CO-CHAIRMEN FRASER
AND FASCELL PRESIDING. OTHER MEMBERS PRESENT: WHALEN,
STEELE, BINGHAM, LAGOMARSINO. SRA. PUELMA COVERED FOR
CHILEAN EMBASSY. DEPT AIR POUCHING COPIES OLIVER'S
PRESS RELEASE AND PREPARED STATEMENT AND INTERNATIONAL
COMMISSION OF JURISTS' PRESS RELEASE AND PRELIMINARY
REPORT, REGISTRY NO. 1563057.

2. STATEMENT TEMPERATE AND STRESSES: (1) CHILEAN
CONSTITUTION AND TRADITION STRONG ON PROTECTING HUMAN
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 108370

RIGHTS, E.G. AMPARO; AMERICANS SHOULD NOT BE CRITICAL

INEVITABLE DIFFERENCES BETWEEN COMMON AND CIVIL LAW SYSTEMS; (2) CHILEANS HAVE SUFFERED AN EXTREME TRAUMA FROM WHICH HAVE NOT YET RECOVERED. AMERICANS CAN HAVE INFLUENCE IF THEY CONVEY TO CHILEANS THAT THEY TRULY MEAN IT THAT THEIR INTEREST IN CHILE TODAY IS BECAUSE "CHILE VALE EN EL MUNDO LIBRE"; (3) THERE ARE OBLIQUE REFERENCES TO TORTURE: "A FAIR AND COMPASSIONATE OBSERVER MUST ADD THAT TOUCHES OF ALL TOO HUMAN VENGEANCE AND SADISM ARE ALSO DISCERNIBLE." AND "IT IS FAR TOO LONG A WAY 'ROUND ROBIN HOOD'S BARN TO SEEK TO RE-ESTABLISH FUNDAMENTAL HUMAN RIGHTS VIA A TRICKLE-DOWN FROM THE RESTORATION OF DEMOCRATIC GOVERNMENT - FAR, FAR TOO LONG A WAY WHEN PEOPLE ARE BEING ARRESTED SECRETLY BY FIVE COMPETING INTELLIGENCE SERVICES, HELD INCOMMUNICADO, SYSTEMATICALLY TORTURED, AND TRIED, IF AT ALL, BY MILITARY COMMISSIONS OF NON-LAWYERS WITH NO REVIEW EXCEPT BY ZONAL MILITARY COMMANDERS."; (4) THE FOREIGNERS ARE ALMOST ALL OUT NOW; (5) CHILEANS IN AUTHORITY CAN NOT BE BROUGHT BACK TO A GREATER RESPECT FOR HUMAN RIGHTS BY TELLING THEM THEY HAVE NOTHING TO FEAR. THEY DO FEAR AND THEY BELIEVE DEEPLY THAT THEY HAVE TO FEAR. IT IS NECESSARY TO PERSUADE THAT METHODS OF SELF-PRESERVATION THAT SHOW MORE RESPECT FOR HUMAN RIGHTS (E.G. AS UNDER ART. 3 GENEVA CONVENTIONS OF 1949) WILL ACTUALLY PROTECT THEM AND WILL RESULT IN LESS DAMAGE TO THEIR REPUTATION ABROAD. QUOTING EXCERPT FROM ANNUAL ADDRESS OF PRESIDENT OF CHILEAN SUPREME COURT BEGINNING OF 1974, PROF. OLIVER SUGGESTS THAT BY MOVEMENT ON PART OF JUNTA OR COURT OR BOTH, COURT'S REVIEW OF MATTERS CURRENTLY LEFT EXCLUSIVELY UNDER MILITARY COMMISSIONS AND MILITARY REVIEWING AUTHORITIES MIGHT AT LEAST PARTIALLY BE RESTORED; (6) CHILE IS NOT AS BAD AS 1942-3 SPAIN WHEN CIVIL WAR REPRISALS STILL CONTINUED; (7) AT LEAST AMONG CHILEAN LAWYERS THERE WAS SOME ACCEPTANCE OF THE PROPOSITION THAT ARTICLE 3 OF THE 1949 GENEVA CONVENTIONS IS INTERNATIONAL LAW BINDING ON CHILE WITH RESPECT TO ITS TREATMENT OF CHILEAN CITIZENS. SAME LAWYERS HOWEVER UNABLE ACCEPT THAT ARTICLE 3 OBLIGATIONS ACTUALLY APPLY AS CHILEAN INTERNAL LAW. EVEN LESS WILL THEY ACCEPT RELEVANCE UN CHARTER, LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 108370

DECLARATION HUMAN RIGHTS, DECISIONS ICJ, OAS CHARTER, OR UN CONVENTION CIVIL AND POLITICAL RIGHTS; (8) ONE OF GRAVEST LONGER-RUN DANGERS IS POSSIBILITY NEW CONSTITUTION LEGITIMIZING PRESENT PRETORIAN SYSTEM.

3. IN PRESS RELEASE PROF. OLIVER MAKES FOLLOWING POINT:
"WE BELIEVE IT ESSENTIAL FOR CHILE TO PROVIDE THAT ALL DETAINEES HAVE THE RIGHT OF COUNSEL WITHIN A VERY SHORT

PERIOD AFTER ARREST; THAT CIVILIAN COURTS BE USED TO THE MAXIMUM EXTENT POSSIBLE, ESPECIALLY FOR ORDINARY CRIMES; THAT THE FAMILIES OF ARRESTED PERSONS BE NOTIFIED PROMPTLY OF THE FACT OF ARREST AND THE PLACE OF DETENTION; AND THAT THE JUDGMENTS OF MILITARY TRIBUNALS BE REVIEWED BY LEGALLY COMPETENT APPELLATE BODIES AT THE NATIONAL LEVEL." IN QUESTION AND ANSWER PERIOD OLIVER MADE POINT AMPARO COULD BE MADE APPLICABLE BY DECREE TO ACTIONS OF MILITARY OFFICIALS OR COMMISSIONERS. HE ALSO STRESSED IMPORTANCE OF UPGRADING CALIBRE OF PROSECUTORS. THEIRS IS FAR TOO IMPORTANT A ROLE,

PARTAKING TOO MUCH IN FUNCTION OF THAT OF COURTS OF FIRST INSTANCE IN US, TO BE ENTRUSTED TO YOUNG JUNIOR OFFICERS WITHOUT LEGAL TRAINING AS IS NOW OFTEN THE CASE.

4. PROF. OLIVER SUMMARIZES SITUATION IN CHILE AS "UNSATISFACTORY BUT REMEDIABLE."

5. IN REPLY TO SPECIFIC QUESTION ON AID TO CHILE, OLIVER SAID THAT HE COULD CONCEIVE OF SITUATION IN WHICH IT WOULD BE DESIRABLE TO REFUSE MILITARY HELP TO JUNTA BUT THAT HE WOULD OPPOSE CESSATION OF ECONOMIC ASSISTANCE, SINCE THAT WOULD HURT ONLY CHILEAN PEOPLE. RUSH

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, HUMAN RIGHTS, CONSTITUTION, INTERNATIONAL LAW, LEGISLATIVE TESTIMONY, COMMITTEES, PRESS RELEASES
Control Number: n/a
Copy: SINGLE
Draft Date: 23 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE108370
Document Source: CORE
Document Unique ID: 00
Drafter: CRUNYON:AWR
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740130-0102
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740522/aaaaatnq.tel
Line Count: 139
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 19 JUN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 JUN 2002 by cunninfx>; APPROVED <04 MAR 2003 by GarlanWA>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TESTIMONY OF PROF. COVEY OLIVER BEFORE HOUSE SUBCOMMITTEES
TAGS: PINS, SOCI, CI, (OLIVER, COVEY), (FRASER), (FASCELL)
To: SANTIAGO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005